

Remarks

The present Response is to the Office Action mailed 12/31/2009, made final. Claims 40-42, 44-53, and 70-82 are standing for examination.

From the action:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 40-42, 44-53, and 70-82 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 40, 70, and all their dependent claims are directed to *software per se*, which is non-statutory subject matter. Even though claims are directed to a communication management system and a method comprising a computer/machine-readable medium, does not make it statutory because nowhere in specification computer/machine-readable medium is defined consisting of hardware. Therefore, Examiner is interpreting computer/machine-readable medium as software because the steps of these claims can be done by software as also recited in claim embodiment. Further, Examiner would like to suggest changing "computer/machine readable medium" in claims 40 and 70 to recite either "computer-readable storage medium" or "machine-readable storage medium" to show consistency in claim language as well as making it proper statutory subject matter.

Applicant's response:

The applicant has amended claims 40 and 70 to recite a "machine-readable storage medium" as suggested, and further urges that it will be obvious to a person of ordinary skill that this language refers to a hardware medium, and that such a hardware

medium is inherently included in the apparatus of the invention described in the specification.

From the action:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 1 03(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
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7. Claims 40-42, 44-53, and 70-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shtivelman (US Patent No. 6,535,492) in view of Holbrook et al. (Holbrook) (US Pub. No. 2003/0078985) and further in view of Fraser ("MT-NW Manual).
 8. Regarding claims 40 and 70, Shtivelman discloses the invention as claimed a method and communication management system, comprising: a computer appliance (see

abstract, figure 1 and the details related; system is using computer appliances); a data repository coupled to the computer appliance storing a directory of contact identifies, a user-configurable plurality of zones to which contact identities may be associated, and user-configurable communication-management policies that vary by zone and by contact identity; and software stored on and executable from a computer readable medium accessible by the computer appliance (see abstract; col. 2, lines 27-43; data repository storing parameters and a management software executes on a server associated with the communication center system), the software providing at least a policy-enforcement utility and a message-content analyzer; wherein, in communication operations, contact identities and message content is analyzed to determine zone association, and management policies are enforced by the software accordingly.

9. Shtivelman substantially discloses the invention as claimed for the given reason above but does not explicitly disclose wherein said a data repository coupled to the computer appliance storing a directory of contact identifies, a user-configurable plurality of zones to which contact identities may be associated, and user-configurable communication-management policies that vary by zone and by contact identity and further wherein software providing at least a policy-enforcement utility and a message content analyzer; wherein, in communication operations, contact identities and message content is analyzed to determine zone association, and management policies are enforced by the software.

10. In the same field of invention Holbrook discloses wherein said a data repository coupled to the computer appliance storing a directory of contact identifies, a user configurable plurality of zones to which contact identities may be associated, and user configurable communication-management policies that vary by zone and by contact identity (see par. [0007, 0101, 0128, 0195]; wherein central repository of data and creating plurality of zones within messaging nodes with given value are available for users etc.).

11. It would have been obvious to one of the ordinary skill person in the art of networking at the time of invention to combine the teaching of Shtivelman into Holbrook for plurality of zones with predetermine policies/values associated with them.

12. Shtivelman-Holbrook substantially disclose the invention for the given reasons above but do not explicitly disclose wherein software providing at least a policy enforcement utility and a message-content analyzer; wherein, in communication operations, contact identities and message content is analyzed to determine zone association, and management policies are enforced by the software.

13. In the same field of invention Fraser discloses wherein software providing at least a policy-enforcement utility and a message-content analyzer; wherein, in communication operations, contact identities and message content is analyzed to determine zone association, and management policies are enforced by the software (comprising enforcing a rule that messages must be sent with the proper text encoding for a personality: see third par. on pg. 38; Fraser also discloses a plurality of zones each with unique set of users and each user identified by a unique name in the zone (posting to Usenet: see "Posting New Articles" on p. 25; comprising the body of information included in message sent from a "Personality", which is an identity specific to a user for use in a specific zone, the zone comprising a newspaper: see pg. 35 and "Group Setting" on pg. 41; also see pg. 20 "Reading the News") and wherein communication is supported in multiple modes and protocols within each zone and the system activates a zone based at least one name of active users (see comprising the function which creates "Personalities": pg. 35-36 and selecting personality based on a filter defined by author name: see discussion of "Filters" on pgs. 41-42 and the third par. of pg. 61).

14. It would have been obvious to one of the ordinary skill in the art of networking at the time of the invention to combine the teaching of Shtivelman-Holbrook into Fraser for

a communication management system. Motivation for doing so would have been having data available for plurality of zones within messaging nodes (see Holbrook par. [0128]).

Applicant's response:

The applicant responds in the following comments to the rejection of Claims 40 and 70 over Shtivelman in view of Holbrook and further in view of Fraser, all of record. Firstly, as a general observation, it appears that the examiner has interpreted the claims as comprising a central system, wherein individuals communicate with an agent at a central server, who also communicates with other individuals at other computerized stations. Therefore the application of Shtivelman, which is a Chat system wherein an agent receives messages from a plurality of communicants and posts messages back to such communicants. This is not the case, as the invention is actually a system operable at a station of an individual for enabling that individual to manage communication with other individuals in a way that the nature of communications can be categorized into "zones", which are categories of nature-of-communication, that can be associated with contact identification of other individuals. For example, an individual, at his computerized workstation which is connected to the Internet, may create a first "zone" for communication about and involved with his employment, a second "zone" for communications involved with a little league baseball team of which he is the coach, and a third "zone" for communications involving antique furniture, which he buys and sells over the Internet. In the first zone he may associate IDs of fellow employees and his boss. In the second zone he may associate IDs players on the team and parents of those players. In the third zone he may associate IDs of frequent buyers of his antique furniture, and sources of procurement of such furniture.

In addition the claimed system enables the individual to establish different management policies for different zones, and a way in which, in either sending or receiving a message, the zone may be established either or both by noting contact identities associated with a zone, or by parsing the message for content that associates with one of the zones. Once the zone is established, the message may be managed

according to the correct policy associated with that zone. This way messages meant to be sent to contacts at the place of employment are prevented from being sent to antique dealers or little league players, and message received from antique buyers may be stored in a portion of a data base reserved for this purpose.

It may be that the claim language does not clearly establish these metes and bounds, and the applicant endeavors herein to amend the claims to make these limitations more clear. The applicant solicits input from the examiner as well, if the examiner has suggestions as to how these limitations might be made more clear, and why, in the examiner's opinion, the art cited and applied reads on these limitations.

It is not really clear to the applicant exactly which limitations that the examiner believes are met by the reference Shtivelman. In paragraph 8 the examiner recites the entirety of claim 1 as though Shtivelman meets ALL of the limitations. However, in paragraph 9 the examiner states that Shtivelman "...does not explicitly disclose wherein said a data repository coupled to the computer appliance storing a directory of contact identifies, a user-configurable plurality of zones to which contact identities may be associated, and user-configurable communication-management policies that vary by one or both of zone and contact identity, and further wherein software providing at least a policy-enforcement utility and a message content analyzer; wherein, in communication operations, contact identities and message content is analyzed to determine zone association, and management policies are enforced by the software. The list of limitations listed as not met by Shtivelman in paragraph 9 is all of the limitations except the fact of a messaging system on a computer with a data storage facility; so the applicant presumes those are in fact the limitations for which Shtivelman is applied. The examiner then, in paragraph 10, applies Holbrook for most of the limitations not taught by Shtivelman, but states that Shtivelman-Holbrook does not explicitly disclose wherein software providing at least a policy enforcement utility and a message-content analyzer; wherein, in communication operations, contact identities and message content is analyzed to determine zone association, and management policies are enforced by the software.

If in fact Shtivelman is applied as teaching just a messaging system operating on a

computerized system, as seems to be the case, the applicant has no problem with it. As to the application of Holbrook, however, the applicant has a few problems and comments:

In the following comments related to the references of Holbrook and Fraser, the comments are made with regard to the amended claim 40, which states:

40. (Currently amended) A communication management system, comprising:

- a computer appliance associated with a particular user;

- a data repository coupled to the computer appliance storing a directory of contact identities, a user-configurable plurality of zones, each zone created by the user and defined by a business or by a social-related activity, to which contact identities are associated by the user, and user configured communication-management policies that vary by zone; and

- software stored on and executable from a machine-readable storage medium accessible by the computer appliance, the software providing at least a policy-enforcement utility and a message-content analyzer;

- wherein, in communication operations, contact identities and message content is analyzed to determine zone association, and management policies are enforced by the software according to zone association.

The examiner states in paragraph 10 that Holbrook teaches "...a directory of contact identities, a user configurable plurality of zones to which contact identities may be associated, and user configurable communication-management policies that vary by zone and by contact identity (see par. [0007, 0101, 0128, 0195]; wherein central repository of data and creating plurality of zones within messaging nodes with given value are available for users etc.)"

Applicant has read paragraphs 0007, 0101, 0128, and 0195 of Holbrook, and presents these passages below as an aid in the present discussion:

[0007] Some conventional network operations, such as POP/SMTP e-mail exchange from a desktop computer, operate normally with intermittent or unreliable communications

(such as a dial-up modem, operating on a telephone line shared with voice telephony usage). However, such operations typically presume that the unreliable connection falls at the frontier of the network, at the interface with an end user, and not between elements within a data distribution network. Thus, the network still acts as a reliable repository of data, available on demand for data exchanges with an end user.

[0101] Portable messaging unit 40 is a remote and portable user interface for messaging system 10. Central server 12 is a central repository of data, messages and administrative functions within messaging system 10. Messaging node 20 is a local communications interface for exchanging information between central server 12 and portable messaging unit 40. It is expected that communications link 70 between central server 12 and messaging node 20, and additionally communications link 72 between messaging node 20 and portable messaging unit 40, may be an unreliable or intermittent data connection. The operation of messaging system 10 is designed to provide robust performance under such conditions.

[0128] b) create a plurality of zones within messaging nodes 14 reflecting, for a given user, a graduation of value in having message data available for that user. Messaging system 10 may not know which member of messaging nodes 14 a user will visit to retrieve messages. In this circumstance, it may be advantageous to send all incoming message data to a primary messaging zone 82, and send a data subset comprising only higher priority message data to secondary messaging zone 84 comprising messaging nodes with a lower probability of usage. As is evident, such a method may employ an arbitrary number of zones, and

[0195] a) a user account database, which reflects the status of each user account. Information includes username and password; general contact and identity information such as name, address and telephone

number; service level; active or inactive account status; credit status; and a conduct flag used to indicate known or suspected spammers.

Paragraph 0007 of Holbrook is clearly not applicable to any of the limitations for which Holbrook is applied, as it does not mention any sort of zones or management policies.

Paragraph 0101 of Holbrook is clearly not applicable to any of the limitations for which Holbrook is applied, as it does not mention any sort of zones or management policies. "Administrative functions are mentioned in paragraph 0101, but this is clearly not sufficient to read on a management policy associated with a specific zone.

Paragraph 0128 of Holbrook mentions "zones", but defines these zones as reflecting, for a given user, a graduation of value in having message data available for that user. Claims 40 and 70 have been amended herein to recite that the zones in the present invention are created by the user and defined by a business or by a social-related activity. This is not the case in Holbrook, so the zones in paragraph 0128 of Holbrook cannot read on the user-created zones of content category now claimed.

Paragraph 0195 of Holbrook teaches a user account database, and does not read on any of the limitations to which Holbrook is applied in the rejection.

It is thusly clear that for each and all of the limitations of claim 40 and 70 for which Holbrook is applied, Holbrook does not teach any of the limitations according to the amended claims.

Lastly, Fraser is applied as follows:

"Fraser discloses wherein software providing at least a policy-enforcement utility and a message-content analyzer; wherein, in communication operations, contact identities and message content is analyzed to determine zone association, and management policies are enforced by the software (comprising enforcing a rule that messages must be sent with the proper text encoding for a personality: see third par. on pg. 38; Fraser also discloses a plurality of zones each with unique set of users and each user identified by a unique name in the zone (posting to Usenet: see "Posting New Articles" on p. 25; comprising the body

of information included in message sent from a "Personality", which is an identity specific to a user for use in a specific zone, the zone comprising a newspaper: see pg. 35 and "Group Setting" on pg. 41; also see pg. 20 "Reading the News") and wherein communication is supported in multiple modes and protocols within each zone and the system activates a zone based at least one name of active users (see comprising the function which creates "Personalities": pg. 35-36 and selecting personality based on a filter defined by author name: see discussion of "Filters" on pgs. 41-42 and the third par. of pg. 61)."

Relative to Fraser, it is clear that "zones" in Fraser are not created by the user associated with a particular computer station, as in claim 40 as amended, and are not created as specific to business or social-related activity of that user, as recited in claim 40 as amended. Fraser's zones do not read on the zones recited. This difference is because the system recited is a personal system working with zones that are created by that person according to business and social activity of that person, and the person also creates and associates the management policies associated with each zone.

The examiner seems to be focused on the concept of personalities in Fraser, as though this concept reads on one or more limitations of applicant's claims. The concept of personalities in Fraser begins on page 38, and is actually just the well-known concept of aliases, which allows a person to post messages with different identities and signatures. The definitions on page 35 do, in fact, specify that one of your personalities may represent you as your work self, and another may represent you as your personal self. But this does not read on the classification into zones in the presently-claimed invention, in which the messages (not the person) are classified into such as "work-related messages" or "socially associated messages. Claim 40 does not claim aliases in IDs, although aliases may certainly be used in the presently-claimed system. The claims are limited to zones that are defined by the user into work related or social activity related categories.

Further, it is not clear where in any of the art applied content analysis is used to relate a message to a zone as defined by the claim, and then the zone identity is used to

select and enforce a management policy. The applicant cannot find it, and believes it is not taught in the references.

The applicant wants to make it clear that the comments above do not amount to attacking a single reference in a combination, but are meant to show that the several references in the combination do not, in fact, each teach the limitations of the claims (as amended) which they are alleged to teach; and the combination is thus faulty, and does not rise to the level of a prima facie 103 rejection.

Claims 40 and 70 are thus clearly patentable over the references cited and applied, either singly or in combination, and claims 41 and 42, claims 44-53, and claims 71-82 are thus patentable at least as depended from a patentable claim.

Summary

As all of the claims, as amended and argued above, have been shown to be patentable over the art presented by the Examiner, applicant respectfully requests reconsideration and the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
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